IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8029 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KIRITBHAI SAVABHAI PARMAR

Versus

BHARAT JOSHI

Appearance:

MR ANIL S DAVE for Petitioner

MR HH PATEL for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 08/01/2001

ORAL JUDGEMENT

1. How the detention matters are taken by the State of Gujarat is clearly borne out from this case that even the Government advocate is not having file with him of the matter. No reply has been filed though more than sufficient time was available at the disposal of the

respondents.

2. Learned counsel for the petitioner challenging the order dated 14th June, 2000 contended that the order of detention of the petitioner passed under Prevention of Antisocial Activities Act has been revoked by the State of Gujarat with conditions, but no condition whatsoever could have been imposed and the same is without any authority of law.

3. Learned counsel for the State is unable to satisfy this Court under which provision such a condition can be imposed by the State of Gujarat while revoking the order of detention of the petitioner made by the District Magistrate under the Act aforesaid.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

5. In the absence of any provision in the Act as well as the decision of this Court or the Supreme Court, such condition could not have been imposed and only on this ground, this petition succeeds and the same is allowed and the order dated 14th June, 2000, is quashed and set aside. Rule is made absolute.

4. It is a fit case where the petitioner should be awarded costs of this litigation. The detention order has been revoked by the State of Gujarat after filing of this petition. From this fact, I am prima-facie satisfied that the Government realised that it is difficult for it to defend this petition. Secondly reply has not been filed to this petition which further goes to show that the respondent- State of Gujarat has no defence in the matter. Shri Dave states that he has charged Rs.5000/from the petitioner as fees for providing him his professional services in this case. The State of Gujarat is directed to pay Rs.5000/- as costs of this petition to the petitioner. This amount of costs has to be realised by the State of Gujarat from the officer concerned in the matter who is responsible for not filing reply to the special civil application.

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